

## **REMARKS/ARGUMENTS**

### **1. Remarks of the Amendment**

Claims 21-27 have been amended to more specifically define Applicant's claimed invention.

Antecedent basis for the new claims can be found in the claims and the Specification as filed.

More specifically, Antecedent basis of Claim 21 can be found on page 9, second paragraph of the Specification as filed.

New Claims 28 to 36 have been added.

Applicants respectfully submit no new matter has been introduced by the amendments.

### **2. Response to the Claim Objections**

Claims 22 and 23 have been amended to obviate the objection, as suggested by the Examiner.

### **3. Response to the Double Patenting Rejection**

Claim 1 stands rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1, 2, 18, and 22 of U.S. Patent No. 6,419,491 and Claims 1, 8 and 9 of U.S. Patent No. 6,454,569, and provisionally rejected nonstatutory obviousness-type double patenting as being unpatentable over Claims 1 of Application No. 09/784,284.

Applicants have difficulty in understanding this rejection, because Claim 1 of the instant invention has been canceled. Therefore, this rejection is moot.

In the event that the Examiner was referring to Claim 21, Applicant will submit, if necessary, a terminal disclaimer. However, Applicant believes it would be unnecessary since the priority of the independent claims of the instant application is 1993.

#### 4. Response to the Rejections of Claim 21 Based Upon 35 USC §102(e)

Claim 21 stand rejected under 35 U.S.C. §102(e) as being anticipated by Naiman et al (U.S. Patent No. 5,607,607). This rejection is respectfully traversed.

4.1 Applicants submit herein a copy of parent Application No. 08/146,790, as requested by the Examiner.

For the convenience of review, Applicants provide below the pertinent sections of the parent Application No. 08/146,790, which provides the antecedent basis for independent Claims 21 and 28, and various dependent claims:

(1) On page 17, second paragraph, the parent application discloses the substrate can be provided in the form of flat, planar members having one or more of the microgeometric textured designs and configurations formed on their planar surfaces.

(2) On page 19, second and third paragraphs, the parent application discloses that in the example described, the culture plate surfaces were created from the templates by solvent casting.

An 8-mm solvent depth produce 0.5 mm, polystyrene substrates.

The polystyrene substrates were peeled off their respective templates, and outer edges were removed to yield 50-mm circles.

Surfaces were then evaporation-coated with titanium oxide.

(3) On page 24, second and third paragraphs, the parent application discloses that in the microgeometric texturized configurations illustrated in Figs. 4A-4H, the dimension of "a" can be from about 1.5  $\mu\text{m}$  to about 100  $\mu\text{m}$  and the other dimensions, "b", "c" and "d", can be determined from the "a" dimension.

In Fig. 5A, the grooves and ridges are of equal size (i.e., "a" = "c").

(4) On page 41, Claim 27, the parent application discloses at least one surface of the substrate having a microgeometric texturized pattern defined thereon having a design adapted to promote the growth of a pre-determined tissue cell.

(5) On page 3, fourth paragraph, the parent application discloses that collagen matrix materials have been demonstrated in vitro having the characteristic of cellular contact guidance.

As such, Applicants respectfully point out that the claimed subject matter as defined by the independent claims, as well as dependent Claims 22-24 and 30-33, and in part of the Markush Claim 25 have effective filing date of November 2, 1993.

4.2 As stated by the Examiner, the effective filing date for the subject matter of Claim 21 is November 2, 1993, pending Examiner's reviewing of parent Application No. 08/146,790.

Applicants submit herein a Declaration pursuant 35 U.S.C. §1.131 by Dr. Herald Alexander, who is a co-inventor of the instant application and the parent Application No. 08/146,790.

As demonstrated in the Declaration, the conception and reduction to practice of the claimed subject matter of the instant application were prior to the effective date of November 2, 1993 of U.S. Patent No. 5,607,607. Therefore, U.S. Patent No. 5,607,607 (Naiman et al) is not a proper reference under 35 U.S.C. §102(e) or §103(a).

Accordingly, Applicants respectfully request withdrawal of rejections under 35 U.S.C. §102(e).

#### 5. Response to the Rejections of Claim 22-27 Based Upon 35 USC §103(a)

Claim 22-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Naiman et al (U.S. Patent No. 5,607,607), in view of Curtis et al. (U.S. Patent No. 5,833,641). This rejection is respectfully traversed.

As stated above in Section 4.2 of the Response, U.S. Patent No. 5,607,607

(Naiman et al.) is not a proper reference under 35 U.S.C. §103(a). Similarly, U.S. Patent No. 5,833,641 (to Curtis et al.) is not a proper reference either.

Therefore, Applicants maintain that Applicants' claimed invention defined by Claims 22-27 is not obvious in view of the art of record.

Accordingly, Applicants respectfully request withdrawal of rejections under 35 U.S.C. §103(a).

In view of the above, it is respectfully submitted that Claims 21 to 36, the pending claims, are now in condition for allowance and such action is respectfully requested.

Applicant's Agent respectfully requests direct telephone communication from the Examiner with a view toward any further action deemed necessary to place the application in final condition for allowance.

12/18/2006  
Date of Signature

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